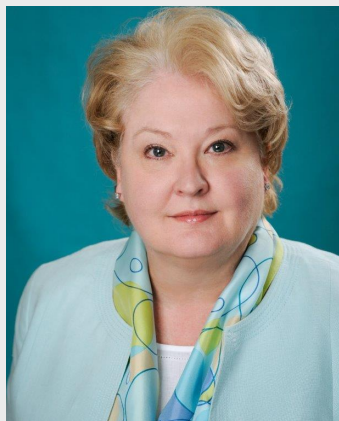




# Fair Housing Newsletter

*Keeping you current on fair housing news and issues*



LAW OFFICE OF  
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## Disparate Impact Occupancy Standard Challenge Survives

A federal judge in Minnesota has refused to dismiss a disparate impact claim involving the two-person per bedroom occupancy standard.

In this case, an apartment complex was purchased, renovated, renamed and rebranded. As part of the process, residents were told their tenancy would terminate at the end of the current lease. However, current residents could apply to remain residents under the new rental rates and screening criteria. They needed a credit score of 625 or higher, income at least 2.5 times the rent and a positive rental history. If they became residents under the new criteria, they were only allowed two occupants per bedroom "NO EXCEPTIONS."

Most of the units were one-bedroom and had more than two people living in the unit. As such, some 864 residents were going to be forced out of their homes. While the tenants failed to allege the size of the units was large enough to allow more than two people per bedroom, they did allege that the "NO EXCEPTION" rule and the fact that two of the individual tenants' applications were rejected because they had newborn infants was discrimination. This was enough for a judge to agree that at this stage of the lawsuit, the occupancy standard claim should survive.

## NAA Sends Members Notice of Occupancy Standard Challenge

On July 20, 2016, The National Apartment Association sent members a notice stating that a complaint had been filed against an NAA member that operates properties in several states. While the notice did not provide a property name or state, it did note that the complaint suggested owners should use local building codes to develop a policy on the basis of square footage and account for the entire living space in the unit. In the alternative, landlords could start using the International Property Maintenance Code with allows up to eight people in a two-bedroom unit with 1100 square feet.



Note from the Editor: This month's newsletter is a collection of articles on fair housing cases, settlements and newsworthy events. If you are interested in learning about a particular topic, please let me know and I will

## In the News

### **\$56,000 to Settle Accommodation Case**

The Springfield, MA Housing Authority has agreed to pay an 82-year old deaf resident \$51,000 after she alleged it failed to provide equipment so she could receive the same level of notifications available to hearing tenants. The Housing Authority also agreed to pay an additional \$5,000 to cover the cost of monitoring its compliance over the next three years.

### **Grants to Assist 1,200 Low Income Persons Living with HIV/AIDS**

The U.S. Department of Housing and Urban Development announced it will be providing \$24 million in grants to assist more than 1,200 low-income persons living with HIV/AIDS and their families. The grants will go to 25 local programs in 17 different states. These programs will use the grant money to continue providing housing assistance annually throughout the three-year grant period.

### **Homeless Veterans Receive Grant Money**

The U.S. Department of Housing and Urban Development announced it has awarded more than \$5 million in grants to 42 local public housing authorities in 17 different states. This money will go toward ending veteran homelessness. In Tennessee, the Metropolitan Development & Housing Agency received over \$72,000 of this money.

### **Steering Families with Children Costs Colorado Complex \$75,000**

The Justice Department has settled with the owners of a 28-unit apartment complex in Colorado after a complaint was filed alleging familial status discrimination. The complaint alleged the owner and manager implemented a policy of excluding families with children from living in the front buildings at the complex and generally restricted them to the back buildings.

Under the terms of the proposed settlement, the landlord must pay \$25,000 to establish a settlement fund to compensate victims who were harmed by their conduct, \$45,000 in monetary damages to a fair housing non-profit organization

and \$5,000 to the United States as a civil penalty. The proposed settlement also prohibits the landlord from engaging in discrimination against families with children in the future and requires that they implement a nondiscrimination policy, establish new nondiscriminatory application and rental procedures, receive training on the Fair Housing Act and conduct monitoring and reporting to the Justice Department for three years.



### **Source of Income Discrimination**

A New York Supreme Court Judge has ruled in favor of two women claiming they were discriminated against based on their source of income. The two women had rental subsidies. They filed a lawsuit in New York County Supreme Court alleging that a landlord was discriminating against prospective renters based on source of income in violation of the New York City Human Rights Law. The two women alleged they were each denied an opportunity to rent apartments in Brooklyn because they were planning to pay their rent with a Living in Communities (LINC) rental subsidy. The LINC program was created by the City of New York to assist homeless individuals and families in moving from temporary shelters to permanent housing. In response to complaints, a non-profit organization coordinated a testing investigation. Agents for the landlord informed the testers that LINC rental subsidies would not be accepted. The women were granted a preliminary injunction directing the landlord to process their rental applications free of any discrimination.

Source of income is not a protected class under the Federal Fair Housing Act. However, many states and municipalities have added source of income as a protected class in their fair housing laws. Lesson Learned: always look at local and state laws when you are managing a complex in a state or location you are not familiar with.

## Accommodation Must Serve Disability

A recent case out of Pennsylvania serves as a reminder that when someone is asking for an accommodation, there has to be a connection to his/her disability.

In this case, a woman suffered from degenerative disc disease, spinal stenosis, fibromyalgia and chronic pain. The pain made it difficult to “order” her day, get out of bed, remember to take her medications and to do other simple tasks like take a shower and comb her hair. She was assisted by two part-time caregivers and her Plott Hound named Mira.

The woman submitted an application to join a cooperative and to purchase a unit at the Kennedy House in Philadelphia. The Kennedy House had a no-dog policy. The woman requested an exception to the policy as an accommodation. To support her request, the woman submitted her doctor’s note stating she had multiple medical issues that affect her mobility and would benefit from the support of her dog. The cooperative then asked her to have her medical professional complete a form. The doctor completed the form.

During a mandatory Cooperative Membership Committee meeting, the woman was asked if Mira was specifically trained to assist with her disability. She answered that Mira was not trained but stayed at home and assisted her with “ordering” her day, remembering to take medication, eat meals and get up out of bed. The Cooperative denied the application.

The woman sued claiming a violation of the Fair Housing Act. The court dismissed the claim. In this court’s opinion, there was no question that Mira did not provide assistance to the lady that was directly related to her mobility. Taking medication, getting out of bed and eating were not related to mobility. Thus, there was no nexus between the disability and the requested accommodation.

## LGBT Discrimination Webinar

Wednesday, August 17, 2016  
10:00 a.m - 11:00 a.m. CDT



The Federal Fair Housing Act does not specifically list sexual orientation as a protected class. However, it may still be unlawful to discriminate against someone because they are gay, lesbian, bi-sexual or transgender. Many state laws and federal regulations for housing programs prohibit sexual orientation discrimination. Even courts have recognized discrimination and harassment claims against gays and lesbians because they do not meet the stereotype of a traditional male or female.

In this month’s webinar, we will discuss issues that will provide landlords with a better understanding of their obligations to the LGBT community members. Our discussion will include:

- Understanding the terms
- Knowing which law applies to you
- HUD’s Final Rule
- Stereotyping discrimination
- Avoiding Harassment

Register at:

[www.angelitafisherlaw.com/fair-housing.html](http://www.angelitafisherlaw.com/fair-housing.html)



# HOUSING CROSSROADS

WHERE FAIR HOUSING AND  
LANDLORD TENANT LAWS INTERSECT

## Housing Crossroads Webinar

### Don't Forget the Addendum

Wednesday, August 31, 2016

10:00 a.m. - 11:30 a.m. CDT

**\$34.99**

While your lease may be set in stone, you can customize your landlord/tenant relationship with an addendum. Be careful though, the addendum may have fair housing implications. In this webinar, we will discuss some of the more common addenda, their implications, necessity and overlapping fair housing issues. Our discussion will include:

- Mold
- Bedbugs
- Appliance
- Guarantor
- Pet/Service Animal
- Satellites
- And much, much, more

To Register  
[Click Here](#)

Join us for what is sure to be a lively discussion with three of Nashville's leading attorneys on the subject.



M. Wesley Hall, III  
Hall & Associates



Nathan Lybarger  
Hall & Associates



Angelita Fisher  
Law Office of AEF



*We offer regular webinars on a variety of fair housing subjects.  
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